

# POLS 5320 – SEMINAR IN PUBLIC LAW

*Mondays: 6:00 – 8:50pm in BEND Room 205*

INSTRUCTOR: Dr. Rebecca A. Reid  
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OFFICE: 307 Benedict Hall  
OFFICE HOURS: MW 3:30 pm-5:30 pm, or by appointment

## **COURSE DESCRIPTION**

This course provides advanced undergraduate students a survey of the literature in judicial politics. The class focuses on judge decision-making and will survey the U.S. Supreme Court, lower federal courts, state supreme courts and courts outside the U.S. This class is reading intensive and formatted as a seminar to enable students to explore and analyze judicial institutions and behavior through discussion and dialogue. Students will be expected to write an original research paper on judicial politics in addition to several short papers evaluating and synthesizing the readings for selected weeks.

## **UTEP EDGE**

This course encompasses activities associated with UTEP EDGE, including (1) problem-solving and (2) critical thinking through class discussion, homework, and research experience. This course enables and requires (3) research and scholarly activity, as well as (4) creativity in that assignments challenge students to think in innovative ways to produce original arguments and evaluate problems. (5) Teamwork is encouraged through homework assignments, where students aid each other to learn, execute, and apply class material. Finally (6) communication is emphasized through the completion of the original research paper, where conveying and explaining the theoretical arguments, methodologies, and quantitative results are crucial.

## **LEARNING OUTCOMES**

Over the course of the semester students will have:

- An understanding of the key elements of judicial institutions and legal systems as well as understand how institutions shape behavior of judges and the legal community.
- Developed a comprehensive understanding of the fundamental theories related to judicial behavior and decision-making.
- Developed critical and analytical thinking skills necessary to adapt and apply theoretical arguments to specific institutional and environmental contexts.
- Demonstrated the ability to synthesize and evaluate specific arguments into cogent arguments and explanations.
- Prepared a conference level, original research paper related to judicial politics.

## REQUIRED READINGS

- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.
- All readings are listed by week. Students are required to locate and read each article. Required articles and other readings can be accessed from the UTEP library (which includes JSTOR, Sage, Heinonline, and other sources). Access is free on UTEP campus or at home via proxy. Occasionally, Google Scholar and author websites may similarly provide access to these articles. In no situation is a student expected to or required to purchase an article. Students who have trouble accessing or locating an article are expected to contact the instructor as soon as possible for assistance.

## COURSE REQUIREMENTS AND GRADING

Evaluation in this course will be based on the following components:

Attendance/Class Discussion	15%
Critical Evaluation Papers (3)	35%
Research Paper	50%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

***Class Discussion:*** Attendance and participation are essential. Students are responsible for offering their thoughts, opinions, and questions without solicitation from the instructor. Needless to say, these thoughts should have merit and be based upon the readings.

***Critical Evaluations:*** Each week for the three selected weeks\*, students are responsible to turn in a critical evaluation essay that must critique the readings due that week. These papers should address the strengths and weaknesses of the readings, discuss common and disparate themes, how the scholarship is advanced (or not) by these readings, the limitations of the readings, how the research can be improved, etc. **This is not a summary of the readings.** Rather, the essay is an assessment of the readings, addressing the theoretical and methodological issues and synthesizing scholarship to provide a clear understanding of the relationship across readings. These papers should be **3-5 pages long, typed, and are due by 5 pm Mondays**. References and citations are mandatory, and the works cited pages do not count toward the page limitations.

\*Students will select 3 weeks for which they will write these critical evaluation papers. Hence, there will be a total of 3 papers due for each student. Students are responsible for

successfully completing and submitting each paper and staying on schedule. **Students are under no circumstances able to make up these papers, and I do not accept late work.**

***Research paper:*** Students must complete an original research paper that offers conference-level work. Early in the semester, each student must submit a 1-2 page research proposal that includes a detailed research question(s). The goal of the research paper is to explore a topic in judicial politics beyond that covered in assigned readings and class discussion. All topics must be approved by the instructor.

The final research paper is **due the last day of class** and should be approximately **10-25 pages long**. **Students must submit their paper in hard copy format during class**. Students are encouraged to meet with me periodically throughout the semester for feedback and discuss their progress.

### **SPECIAL ACCOMODATIONS**

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to [cass@utep.edu](mailto:cass@utep.edu), or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at [www.sa.utep.edu/cass](http://www.sa.utep.edu/cass). *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.*

### **ACADEMIC DISHONESTY**

**Absolutely no form of academic dishonesty will be tolerated.** The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, and any act designed to give unfair advantage to a student or the attempt to commit such acts. Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at [www.utep.edu/dos](http://www.utep.edu/dos), may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

### **UNIVERSITY WRITING CENTER**

The University Writing Center is a useful tool each of student should take advantage of in for all written/paper assignments. While not required, your paper will be improved following a consultation with the staff. The staff sees students through appointments or walk-ins, though

appointments are preferred. For more information, go to: <http://uwc.utep.edu/index.php/hours-location>. For appropriate assignments, I offer up to 10 points extra credit if you consult the writing center. *In order to be eligible for this credit, you must show evidence of your consultation and evidence of the revisions suggested and those you made. You must also provide a reflection as to what you learned from the experience* (for instance, what types of errors do you systematically make and how can you correct them). Hence, credit will only be possible with adequate evidence and thoughtful reflection of the writing and revision process.

## **COUNSELING AND PSYCHOLOGICAL SERVICES**

The center, located at 202 Union West, offers confidential counseling services in English or in Spanish. They also provide group and individual counseling for currently enrolled UTEP students. For more information, go to: <https://www.utep.edu/student-affairs/counsel/>.

## **ADELANTE CHILD DEVELOPMENT CENTER**

Child care is available for children of all students of the University. The Adelante Child Development Center is located at 314 W. Schuster and is managed and operated by Adelante Childcare, Inc. Children aged three months to 12 years are accepted, depending on space availability (Hourly, daily and weekly care are available and the Center offers a Summer Camp for school-age children). Age-appropriate early childhood developmental programs are offered in the curriculum. The Adelante Child Development Center is licensed by the Texas Department of Protective and Regulatory Services. Financial assistance is available for qualifying parents through Child Care Services. For more information, please call: **915-532-1114** or contact: [studentaffairs.utep.edu/childcare](http://studentaffairs.utep.edu/childcare). If, for any reason, you cannot find a care-taker for your child(ren), you are welcome to bring them to class.

## **GENERAL EXPECTATIONS**

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the textbooks, articles, videos, and the class discussions. If you miss a class, you are still responsible for the content of that day's information. I will not tolerate disruptive behavior, including (but not limited to) inappropriate computer use, reading newspapers, talking during lectures, using cell phones or pagers, and disrespecting classmates or the instructor. Additionally, I expect all students to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. I allow the use of laptops for class purposes only; however, should laptop usage become disruptive, I reserve the right to prohibit laptops and other electronic devices.

This class is designed to provide information and challenge students with new, and sometimes controversial, ideas and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. This class does not *give* you knowledge—i.e. knowledge and understanding is not transfused to students by simply sitting in class. Learning is an interactive process that is the primary responsibility of each student.

**Late assignments will receive no credit.**

All grades are earned and reflect your reflect the mastery of material through the adequate completion of assignments by their deadline. As such, they do not reflect level of effort, interest, or intention. As a general policy, I do not offer incompletes, and **I will not change final grades for the course under any circumstances**, with the single exception of where an error occurred on my part.

## **COURSE SCHEDULE**

The following is a list of topics to be covered at each class meeting, and the readings which should be completed in order to fully participate in class that day. You are required to read the material prior to the class. Literature not included in the textbook but listed on syllabus are the responsibility of students to locate (online) and read. Academic articles can often be found via the UTEP library's website under the "Articles and Database" tab, where you can search repositories like JSTOR and Sage as well as individual journal titles. Finally, while I give specific days on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. As a general rule, the course will follow this order of topics, regardless of date changes, unless otherwise announced.

### **WEEK 1: INTRODUCTION TO PUBLIC LAW**

### **WEEK 2: U.S. SUPREME COURT: ATTITUDINAL MODEL**

#### *Readings:*

Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.

Epstein, Lee, Valerie Hoekstra, Jeffrey A. Segal, and Harold J. Spaeth. 1998. "Do Political Preferences Change? A Longitudinal Study of U.S. Supreme Court Justices." *JOP* 60(Aug.): 801-818.

Epstein, Lee, Andrew D. Martin, Jeffrey A. Segal, and Chad Westerland. 2007. "The Judicial Common Space." *JLEO* 23: 303-325.

Martin, Andrew D. and Kevin M. Quinn. 2007. "Assessing Preference Change on the US Supreme Court." *JLEO* 23: 365-385.

### **WEEK 3: U.S. SUPREME COURT: LEGAL MODEL**

*Readings due:*

Bailey, Michael A. and Forrest Maltzman. 2008. "Does Legal Doctrine Matter? Unpacking Law and Policy Preferences on the U.S. Supreme Court." *APSR* 102(Aug.): 369-384

Bartels, Brandon, and Andrew O'Geen. 2015. "The Nature of Legal Change on the U.S. Supreme Court: Jurisprudential Regimes Theory and Its Alternatives." *American Journal of Political Science* 59 (4), 880-895.

Knight, Jack and Lee Epstein. 1996. "The Norm of *Stare Decisis*." *AJPS* 40 (Nov.): 1018-1035.

### **WEEK 4: U.S. SUPREME COURT: STRATEGIC MODELS AND SOP**

*Readings due:*

Moyer, Laura, and Ellen M. Key. 2018. "Political Opportunism, Position Taking, and Court-Curbing Legislation." *Justice System Journal* 39 (2): 155- 170.

Ward, Dalston G., and Matthew Gabel. 2019. "Judicial Review Timing and Legislative Posturing: Reconsidering the Moral Hazard Problem." *Journal of Politics* 81 (2): 681- 685.

Bryan, Amanda C., and Christopher D. Kromphardt. 2016. "Public Opinion, Public Support, and Counter-Attitudinal Voting on the U.S. Supreme Court." *The Justice System Journal* 37 (4): 298- 317.

Hall, Matthew. 2014. "The Semiconstrained Court: Public Opinion, the Separation of Powers, and the U.S. Supreme Court's Fear of Nonimplementation." *American Journal of Political Science* 58 (2), 352-366.

### **WEEK 5: AGENDA SETTING**

*Readings due:*

Black, Ryan C. and Ryan J. Owens. 2009. "Agenda Setting in the Supreme Court: The Collision of Policy and Jurisprudence." *JOP* 71: 1062-1075.

Owens, Ryan J. 2010. "The Separation of Powers and Supreme Court Agenda Setting." *AJPS* 54: 412-427.

Benesh, Sara C., Saul Brenner, and Harold J. Spaeth. 2002. "Aggressive Grants by Affirm-Minded Justices." *APR* 30(May): 219-234.

### **RESEARCH TOPIC PROPOSAL DUE**

## **WEEK 6: OPINION ASSIGNMENT, CONTENT, AND CONSENSUS**

### *Readings due:*

Wedeking, Justin, and Michael A. Zilis. 2018. "Disagreeable Rhetoric and the Prospect of Public Opposition: Opinion Moderation on the US Supreme Court." *Political Research Quarterly* 71 (2): 380- 394.

Rice, Douglas R. 2016. "Issue Divisions and US Supreme Court Decision Making." *Journal of Politics* 79 (1): 210- 222.

Hendershot, Marcus E., Mark S. Hurwitz, Drew Lanier, and Richard L. Pacelle, Jr. 2013. "Dissensual Decision-Making: Revisiting the Demise of Consensual Norms within the U.S. Supreme Court." *Political Research Quarterly* 66: 467-81.

Corley, Pamela C. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly* 61 (3): 468- 478.

Lax, Jeffrey R., and Kelly Rader. 2015. "Bargaining Power in the Supreme Court: Evidence from Opinion Assignment and Vote Switching." *The Journal of Politics* 77 (3): 648- 663.

## **WEEK 7: U.S. SUPREME COURT: OTHER INFLUENCES**

### *Readings due:*

Casillas, Christopher, Peter Enns, and Patrick Wohlfarth. 2011. "How Public Opinion Constrains the U.S. Supreme Court." *American Journal of Political Science* 55 (1), 74-88.

Johnson, Timothy R., Paul J. Wahlbeck, and James F. Spriggs, II. 2006. "The Influence of Oral Arguments on the U.S. Supreme Court." *APSR* 100: 99-113.

Gleason, Shane A. 2018. "The Dynamics of Legal Networks: State Attorney General Amicus Brief Coalition Formation." *The Justice System Journal* 39 (3): 253- 272.

Jacobi, Tonja, and Dylan Schweers. 2017. "Justice, Interrupted: The Effect of Gender, Ideology, and Seniority at Supreme Court Oral Arguments." *Virginia Law Review* 103: 1379- 1496.

Lin, Timothy E. 1999. "Social Norms and Judicial Decisionmaking: Examining the Role of Narratives in Same-Sex Adoption Cases." *Columbia Law Review* 99 (3): 739- 794.

## **WEEK 8: U.S. COURTS OF APPEALS**

*Readings due:*

Glynn, Adam N. and Maya Sen. 2015. "Identifying Judicial Empathy: Does Having Daughters Cause Judges to Rule for Women's Issues?." *American Journal of Political Science* 59: 37–54.

Williams, Margaret, and Anna Law. 2012. "Understanding Judicial Decision Making in Immigration at the U.S Courts of Appeals." *The Justice System Journal* 33.1: 97-119.

Black, R. C. and Owens, R. J. 2016. "Courting the President: How Circuit Court Judges Alter Their Behavior for Promotion to the Supreme Court." *American Journal of Political Science* 60: 30–43.

Boyd, Christina L., Lee Epstein, and Andrew D. Martin. 2010. "Untangling the Causal Effects of Sex on Judging." *American Journal of Political Science* 54: 389- 411.

Kastellec, J. 2013. "Racial Diversity and Judicial Influence on Appellate Courts." *American Journal of Political Science*, 57(1), 167-183.

Scherer, Nancy, and Banks Miller. 2009. "The Federalist's Society Influence on the Federal Judiciary." *Political Research Quarterly* 62 (2): 366-378.

## **WEEK 9: U.S. DISTRICT COURTS**

*Readings due:*

Tiede, Lydia Brashear. 2007. "Delegation Discretion: Quasi Experiments on District Court Decision Making." *American Political Research* 35 (Sep.): 595-620.

Logue, Melissa A. 2009. "'The Price of Being Mexican': Sentencing Disparities between Noncitizen Mexican and Non-Mexican Latinos in the Federal Courts." *Hispanic Journal of Behavioral Sciences* 31 (4): 423- 445.

Redman, Shane M. 2017. "Descriptive Gender Representation and Legitimacy in U.S. Trial Courts." *The Justice System Journal* 38 (4): 311- 331.

Hansford, Thomas G., Elisha Carol Savchak, and Donald R. Songer. 2010. "Politics, Careerism, and the Voluntary Departures of U.S. District Court Judges." *American Political Research* 38: 986-1014.

Solowiej, Lisa A., Wendy L. Martinek, and Thomas L. Brunell. 2005. "Partisan Politics: The Impact of Party in the Confirmation of Minority and Female Federal Court Nominees." *Party Politics* 11 (5): 557- 577.



## **WEEK 10: HIERARCHICAL INFLUENCES ON FEDERAL COURTS**

### *Readings due:*

Beim, Deborah. 2017. "Learning in the Judicial Hierarchy." *Journal of Politics* 79 (2): 591-604.

Bryan, Amanda Clare, and Ryan J. Owens. 2017. "How Supreme Court Justices Supervise Ideologically Distance States." *American Political Research* 45 (3): 435- 456.

Beim, Deborah, and Jonathan Kstellec. 2014. "The Interplay of Ideological Diversity, Dissents, and Discretionary Review in the Judicial Hierarchy: Evidence from Death Penalty Cases." *Journal of Politics* 76 (4): 1074- 1088.

Benesh, Sara C. and Malia Reddick. 2002. "Overruled: An Event History Analysis of Lower Court Reaction to Supreme Court Alteration of Precedent." *JOP* 64(May): 534-550.

## **WEEK 11: U.S. STATE COURTS**

### *Readings due:*

Norris, Mikel and Holley Tankersley. 2018. "Women Rule: Gendered Leadership and State Supreme Court Chief Justice Selection." *Journal of Women, Politics & Policy* 39 (1): 104-125.

Brace, Paul, Laura Langer, and Melinda Gann Hall. 2000. "Measuring the Preferences of State Supreme Court Judges." *JOP* 62(May): 387-413.

Blake, William D. 2018. "Judicial Independence on Unelected State Supreme Courts." *The Justice System Journal* 39 (1): 21- 38.

Curry, Todd A., and Michael K. Romano. 2018. "Ideological Congruity on State Supreme Courts." *The Justice System Journal* 39 (2): 139- 154.

Johnson, Gbemende. 2017. "Legislative 'Allies' and Judicial Oversight of Executive Power." *The Justice System Journal* 38 (2): 116- 134.

Bonneau, Chris W., and Damon M. Cann. 2011. "Campaign Spending, Diminishing Marginal Returns, and Campaign Finance Restrictions in Judicial Elections." *The Journal of Politics* 73 (4): 1267- 1280.

## **WEEK 12: COURTS IN A COMPARATIVE PERSPECTIVE**

### *Readings due:*

Tate, C. Neal, and Stacia L. Haynie. 1993. "Authoritarianism and the Function of Courts: A Time Series Analysis of the Philippine Supreme Court, 1961-1987." *LSR* 27(4): 707-740.

Popova, Maria. 2010. "Political Competition as an Obstacle to Judicial Independence: Evidence from Russia and Ukraine," *Comparative Political Studies*, Vol. 43, Issue 10 (October 2010), pp. 1202-1229.

Helmke, Gretchen. 2002. "The Logic of Strategic Defection: Court-Executive Relations in Argentina Under Dictatorship and Democracy" *APSR* 96: 291-303.

Johnson, Susan W., and Donald Songer. 2009. "Judge Gender and Voting Behavior of Justices on Two North American Supreme Courts." *The Justice System Journal* 30 (3): 265-279.

Kaheny, Erin B., John J. Szmer, and Tammy A. Sarver. "Women Lawyers Before the Supreme Court of Canada." *Canadian Journal of Political Science* 44 (1): 83- 109.

## **WEEK 13: COURTS IN A COMPARATIVE PERSPECTIVE II**

### *Readings due:*

Domingo, Pilar. 2000. "Judicial Independence: The Politics of the Supreme Court in Mexico." *Journal of Latin American Studies* 32.

Staton, Jeffrey K. 2006. "Constitutional Review and the Selective Promotion of Case Results." *American Journal of Political Science* 50 (1): 98- 112.

Finkel, Jodi. 2005. "Judicial Reform as Insurance Policy: Mexico in the 1990s." *Latin American Politics and Society* 47 (1): 87- 113.

Rios-Figueroa, Julio. 2007. "Fragmentation of Power and the Emergence of an Effective Judiciary in Mexico, 1994-2002." *Latin American Politics and Society* 49 (1): 31- 57.

Schor, Miguel. 2009. "An Essay on the Emergence of Constitutional Courts: The Cases of Mexico and Colombia." *Indiana Journal of Global Legal Studies* 16 (1): 173- 194.

Huebert, Erin T., and Amy H. Liu. 2017. "Ethnic Identity and Attitudes Toward State Institutions: Evidence of Judicial Legitimacy Among The Indigenous in Latin America." *Politics, Groups, and Identities* 5 (4): 561- 579.

## **WEEK 14: IMPACT OF COURTS**

### *Readings:*

Hinkle, Rachael K. 2015. "Into the Words: Using Statutory Text to Explore the Impact of Federal Courts on State Policy Diffusion." *American Journal of Political Science* 59 (4): 1002- 1021.

Schorpp, Susanne, David Hoffman, and Benjamin Kassow. 2017. "'Tilted Scales': The Impact of the U.S. Supreme Court on American Income Inequality." *The Justice System Journal* 38 (3): 213- 240.

### **RESEARCH PAPER DUE**